

REMARKS

The non-final Office Action mailed on January 25, 2007 (the "Office Action") has been carefully reviewed. It is respectfully submitted that the present invention is patentably distinguishable over the cited references. Reconsideration of this application in view of the amendments and remarks is respectfully requested.

Summary of the Rejection of the Claims

In the Office Action, the Examiner rejected claims 11-12 and 16-17 under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 18-21 were rejected under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 1-7 and 18-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Buchanan et al., U.S. Published Application No. 2005/0021466, which was published on January 27, 2005 (hereinafter "Buchanan").

Claims 11-17 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Buchanan in view of Green et al., U.S. Patent No. 5,602,936, which issued on February 11, 1997 (hereinafter "Green").

Claims 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Buchanan as applied to claim 7 above, in view of Green.

The Applicants respectfully traverse these rejections, and in view of the following arguments and amendments, request reconsideration and withdrawal thereof.

Rejection of the Claims Under 35 U.S.C. §§ 112, Second Paragraph

The Examiner rejected claims 11-12 and 16-17 under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner stated that claim 11 had insufficient antecedent basis for the limitation "the second image exchange server." The Examiner also stated that claim 16 had insufficient antecedent basis for the limitations "the bank check" and

“the captured.” Applicants have amended claims 11 and 16. The Applicants respectfully submit that both claims 11 and 16 are now in condition for allowance. Therefore, claims 12 and 17 should also be in a condition for allowance.

The Examiner rejected claims 18-21 for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner stated that the term “compatible” in claim 18 renders the scope unascertainable. The Applicants respectfully disagree, but in the interest of moving the application forward timely in a manner, the Applicants have amended claim 18 to resolve the rejection. The Applicants respectfully submit that claim 18 is now in condition for allowance. Therefore, claims 19-21 should also be in a condition for allowance.

Thus, the Applicants respectfully request reconsideration and withdrawal of the rejection of pending claims 11-12, 16-17 and 18-21 under 35 U.S.C. § 112, second paragraph in light of amended claims 11, 16 and 18.

Rejection of the Claims Under 35 U.S.C. § 103(a)

Buchanan

The Applicants respectfully traverse the Examiner’s rejection of claims 1-7 and 18-22 as being unpatentable over Buchanan. Regarding independent claims 1-3, the Examiner expressly noted that Buchanan does not disclose a “real-time” function, but that “interactive processes are known to be real-time processes.” The Examiner’s assertion that interactive processes are known to be real-time processes is an unsubstantiated, conclusory statement. The Examiner has failed to provide any facts or evidence to support this conclusory statement. The Applicants respectfully submit that the Examiner’s assumptions must be supported by concrete evidence to support his conclusory statement. In re Zurko, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001); see also MPEP 2144.03. The “deficiencies of the cited reference cannot be remedied by . . . general conclusions about what is ‘basic knowledge’ or ‘common sense.’” In re Lee, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002) (citing In re Zurko, 59 USPQ2d at 1697). Therefore, in this instance, and through the Examiner’s own admission, Buchanan does not disclose or teach a limitation of the Applicants’ claimed invention. Further, the Examiner has failed to establish a *prima facie* basis for rejecting the pending claims over Buchanan. Thus, the Applicants respectfully submit that Buchanan is an improper citation due to the lack of a “real-time” or “concurrent” capability.

Therefore, the Applicants respectfully submit that independent claims 1-3 are in a condition for allowance as well as claims 4-6 which depend from claim 3.

Regarding independent claims 7, 18 and 22, the Applicants use the terms “real-time” and/or “concurrent” in the referenced independent claims. The Examiner previously indicated that Buchanan does not disclose a “real-time” function. Therefore, the Applicants reiterate and incorporate by reference the previous arguments that Buchanan is an improper citation due to the lack of a “real-time” or “concurrent” capability. Thus, the Applicants respectfully submit that independent claims 7, 18 and 23 are in a condition for allowance as well as the claims 19-21 which depend from claim 18.

Buchanan’s interactive processes cannot be real-time processes or concurrent processes according to the Buchanan specification. Buchanan is replete with language expressly requiring a multi-step process to process a check. The Examiner cited Buchanan paragraphs 0012-0018 for each claim rejected. The following paragraph includes an excerpt from each of Buchanan paragraphs 0012-0018 to show Buchanan’s clear requirement for a sequential process instead of a “real-time” or “concurrent” process.

Buchanan specifically discloses a process that requires sequential processing of the check and then transmitting the digital information. This multi-step process cannot be equated with the Applicants’ “real-time” and “concurrent” limitations in claims 1-7 and 18-22. Specifically, Buchanan’s paragraph 0012 discloses “[o]nce this information is captured and validated at the remote site, it is transferred to the financial institution over telecommunications lines.” Buchanan’s paragraph 0013 discloses “. . . to do most of the decision-making on the remote site processor before transmitting the check information to the central site.” Buchanan’s paragraph 0014 discloses “. . . based upon decisions made regarding the customer by information stored at the central site.” Buchanan’s paragraph 0015 discloses “[o]nce complete deposit data is received by the central site processor at the bank of first deposit's central site, it is passed to the central site's check processing, deposit, and cash management, etc., systems for processing.” Buchanan’s paragraph 0016 discloses “[o]nce received by the maker bank, the check image or duplicate printed check is processed by the maker bank through their computer systems.” Buchanan’s paragraph 0017 discloses “[a]ll transmission of data preferably undergoes digital signature verification and certification and data encryption to ensure privacy and confidentiality

of the data being transmitted.” Buchanan’s paragraph 0018 discloses “. . . having the check images (and/or physical checks) entered into the bank check clearing channels for ultimate delivery to the maker bank for payment out of the maker's account.”

Therefore, the Applicants respectfully request the reconsideration and withdrawal of the rejection of pending claims 1-7 and 18-22 under 35 U.S.C. § 103(a) as being unpatentable over Buchanan.

Buchanan In View of Green

The Applicants respectfully traverse the Examiner’s rejection of claims 11-17 and 23 as being unpatentable over Buchanan in view of Green. Independent claims 11, 13, 16 and 23 all contain the same terminology of “real-time” or “concurrent” as previously discussed. Applicants’ careful review of Green failed to show any teaching of a “real-time” or “concurrent” process. Therefore, based upon the foregoing arguments, neither Buchanan nor Green are proper citations since both fail to disclose a “real-time” or “concurrent” process as found in Applicants’ independent claims 11, 13, 16 and 23.

In addition, claims 11, 13, 16 and 23 all include a second client image exchange server or a client exchange server for a second financial institution. The Examiner indicated that Buchanan does not disclose an exchange server. Green does not teach a second client image exchange server or a client exchange server for a second financial institution. Green teaches processing the information from the image server and storing that information in the SQL server database. (Green FIG. 4, claims 4 and 10, col. 2, lines 53-62) Green also teaches an optical server for storing frequently accessed information. (Green FIGS. 2 and 4; col. 5, lines 13-25) Thus, the combination of Buchanan and Green is not a proper basis for rejecting dependent claims 11, 13, 16 and 23.

As a result, the claims that depend directly or indirectly from claims 11, 13, 16 and 23, namely claims 12, 14-15 and 17, should be allowable for the same reasons. In addition, Buchanan in view of Green does not tech limitations in these dependent claims. For example, dependent claim 17 includes the limitation of transmitting at least the electronic data in the second client image exchange server to an item processing system of the payor bank when the electronic data contains correct data. The previous arguments and Examiner’s statements have already established that Buchanan does not teach an exchange server. Green teaches an image

server and a SQL server at the first financial institution and not the transmitting of any information to a second financial institution from a second client image server. (Green FIG. 4, claims 4 and 10, col. 2, lines 53-62) None of the Examiner's references to Green, in conjunction with Green's Figures 1-11, teaches a second client image exchange server capable of transmitting at least the electronic data on the second client image exchange server to an item processing system of the payor bank when the electronic data contains correct data. Thus, the combination of Buchanan and Green is not a proper basis for rejecting dependent claim 17.

Therefore, the Applicants respectfully submit that claims 11, 13, 16 and 23 are in a condition for allowance as well as dependent claims 12, 14-15 and 17. Further, the Applicants respectfully request reconsideration and withdrawal of the rejection of pending claims 11-17 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Buchanan in view of Green.

Buchanan In View of Green

The Applicants respectfully traverse the Examiner's rejection of claims 8-10 as being unpatentable over Buchanan, as applied to the rejection of claim 7 above, in view of Green. Independent claim 7 includes the limitations of both "real-time" and "concurrent," which neither Buchanan nor Green discloses, suggests or teaches. Therefore, because claims 8-10 depend upon independent claim 7, and because claim 7 is in a condition for allowance, the Applicants respectfully submit claims 8-10 are also be in a condition for allowance.

In view of the foregoing arguments and amendments, Applicants believe claims 1-23 are in a condition for allowance. Thus, the Applicants respectfully request reconsideration and withdrawal of the rejection of pending claims 1-23 under 35 U.S.C. § 103(a).


CONCLUSION

In view of the foregoing amendments and for the foregoing reasons, Applicants submit that the Examiner's rejection of claims 1-23 should be withdrawn and respectfully requests the allowance of claims 1-23.

This is intended to be a complete response to the Office Action mailed on January 25, 2007.

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Date

Respectfully submitted,



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